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**BARTHOLOMEW COUNTY, INDIANA**  
**REASSESSMENT SOFTWARE**  
**CONTRACTS**

**Contract Addendum**

**License Agreement**

**Support Agreement**

## CONTRACT ADDENDUM

This CONTRACT ADDENDUM ("this Agreement") is made and entered into this 23rd day of October, 1995, by and between PROVAL CORPORATION (hereinafter "Vendor") an Ohio Corporation, with principal offices at 33 E. High Street, Springfield, Ohio 45502, and BOARD OF COMMISSIONERS OF BARTHOLOMEW COUNTY, INDIANA (hereinafter "Customer"), with principal offices at Columbus, Indiana:

### WITNESSETH:

WHEREAS, PROVAL CORPORATION and Customer entered into that certain End-User License Agreement dated October 23, 1995 (the "License Agreement") under which Customer obtained a nonexclusive, nontransferable license to use certain computer programs in object code form and related user documentation (the "Licensed Program") on certain terms and conditions;

WHEREAS, Vendor and Customer entered into that certain Support Agreement dated October 23, 1995 (the "Support Agreement"), under which Vendor shall provide Customer with certain services on the terms and conditions set forth therein;

WHEREAS, Vendor and Customer desire to supplement said agreements by the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the premises hereof, and the mutual obligations herein, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Vendor understands that all payments will be made through the Customer's regular County claims procedure upon presentation of invoice and proper County claim form by Vendor. Vendor claims are paid once a month on a schedule that will be provided. During the pendency of claims in the process, no interest or penalties are to be charged by Vendor.
2. Customer is tax exempt (number to be provided upon request), and is not to be charged any sales or use tax by Vendor.
3. Vendor will maintain public liability and Workers Compensation insurance coverage against claims in amounts up to \$500,000 by reason of any negligent act of Vendor, its agents or employees in the execution of the work.
4. Within 30 days after the date of this Agreement, Vendor shall install Assessor software programs and initiate training of Assessor personnel in use of the programs, subject to the availability to Vendor of Customer's conforming computer equipment as specified in Section III of Vendor's Bid Proposal.
5. Within 21 days after the delivery of flat files, Vendor shall perform the data file conversion of Assessor's present data files into the file structure of new system, subject to the availability to Vendor of Customer's conforming computer equipment as specified in Section III of Vendor's Bid Proposal.

6. Vendor and Customer agree that the following deliverable and fee schedule summarizes the work to be performed by Vendor and the fees to be paid by Customer:

ProVal™ license for nine (9) workstation users	\$14,600.00
ProVal™ conversion support & updates through 09/30/96	8,700.00
ProVal™ training - four (4) days at \$400 per day	1,600.00

TOTAL FOR LICENSES AND SERVICES	\$24,900.00
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7. The Assessment Software License fee is due and payable upon presentation of invoice under the Customer's payment procedure contained in this Agreement.

8. ProVal™ conversion assistance, phone support and updates through September 30, 1996 shall be provided for a flat fee of \$8,700.00. Software support and update maintenance shall be invoiced monthly beginning October 1, 1996, in accordance with the Support Agreement. All on-site support visits, other than the four (4) days of on-site training which shall be invoiced upon completion of training, shall be invoiced to Customer by Vendor according to the fees in Vendor's On-Site Rate Schedule.

9. All claims and statements made in Vendor's Bid Proposal submitted to Customer on October 2, 1995, and subsequent written responses to questions, are made part of this Agreement by reference.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as set forth below.

PROVAL CORPORATION

By:

Title:

J. Wayne Moore  
President

BARTHOLOMEW COUNTY, INDIANA

By:

[Signature]  
[Signature]  
[Signature]

Board of Commissioners

Date:

October 23, 1995

Date:

Oct 23, 1995

COMPUTER PROGRAM END-USER

LICENSE AGREEMENT

(Nonexclusive; Object Code Only)

between

PROVAL CORPORATION

(Licensor)

and

BARTHOLOMEW COUNTY, INDIANA

(Licensee)

LICENSOR DOES NOT SELL OR TRANSFER TITLE TO THE LICENSED PROGRAM TO YOU. YOUR LICENSE OF THE LICENSED PROGRAM WILL NOT COMMENCE UNTIL YOU HAVE EXECUTED THIS AGREEMENT AND AN AUTHORIZED REPRESENTATIVE OF LICENSOR HAS RECEIVED, APPROVED, AND EXECUTED A COPY OF IT AS EXECUTED BY YOU.

1. **License.** In consideration of the payment of the license fees set forth herein, Licensor grants you a nonexclusive license to use the package of computer programs and data in machine-readable form and related materials, including documentation and listings, identified in Exhibit A, which together constitute the "Licensed Program," subject to the following terms and conditions.

2. **Scope of Rights.** You may:

- A. Install the Licensed Program in your own facility at the location specified in Exhibit A;
- B. Use and execute the Licensed Program on the computer specified by type/model and serial (or plant number) in Exhibit A for purposes of serving the internal needs of your County;
- C. Make one copy of the Program in machine-readable, object code form, for nonproductive backup purposes only, provided that Licensor's proprietary legend is included.

**3. Fees and Payments.** The license fee for the Licensed Program is specified in Exhibit A. Licensee will pay this amount directly to Licensor, following delivery of the Licensed Program, within thirty (3) days after the submission by Licensor of a validly executed claim form for the amount due.

You are solely responsible for payment of any taxes (including sales or use taxes, intangible taxes, and property taxes) resulting from your acceptance of this license and your possession and use of the Licensed Program, exclusive of taxes based on Licensor's income. Licensor reserves the right to have you pay any such taxes as they fall due to Licensor for remittance to the appropriate authority. You agree to hold harmless Licensor from all claims and liability arising from your failure to report or pay such taxes.

All fees are payable at the beginning of each month or upon invoice.

**4. Support.** Licensor shall support the Licensed Program in the manner specified in the Support Agreement between Licensor and Licensee. If Licensee does not execute a Support Agreement and pay the fees provided for therein, the Licensor shall have no obligation to provide support. However, Licensor offers support only for the most current version of the Licensed Program issued by Licensor from time to time, so you must make sure to obtain and substitute or incorporate all new releases or fixes issued by Licensor pursuant to its warranty and support programs.

**5. Your Responsibilities.** You are responsible for selecting an operator who is qualified to operate the Licensed Program on your own equipment and is familiar with the information, calculations, and reports that serve as input and output of the Licensed Program. Licensor reserves the right to refuse assistance or to charge additional fees if an operator seeks assistance with respect to such basic background information or any other matters not directly relating to the operation of the Licensed Program.

The Licensed Program is designed for use with the peripheral equipment and accessories specified in Exhibit A. Except as agreed otherwise in writing, Licensor assumes no responsibility under this Agreement for obtaining or providing such equipment. You are also responsible for ensuring a proper environment and proper utilities for the computer system on which the Licensed Program will operate, including an uninterrupted power supply.

Except as agreed otherwise in writing, Licensor assumes no responsibility under this Agreement for converting your data files for use with the Licensed Program.

**6. Proprietary Protection and Restrictions.** Licensor shall have sole and exclusive ownership of all right, title, and interest in and to the Licensed Program and all modifications and enhancements thereof (including ownership of all trade secrets and copyrights pertaining thereto), subject only to the rights and privileges expressly granted to you herein by Licensor. This Agreement does not provide you with title or ownership of the Licensed Program, but only a right of limited use. You must keep the Licensed Program free and clear of all claims, liens, and encumbrances.

You may not use, copy, modify, or distribute the Licensed Program (electronically or otherwise), or any copy, adaptation, transcription, or merged portion thereof, except as expressly authorized by Licensor. You may not reverse assemble, reverse compile, or otherwise translate the Licensed Program. Your rights may not be transferred, leased, assigned, or sublicensed. No service bureau work, multiple-user license, or time-sharing arrangement is permitted, except as expressly authorized by Licensor. You may not install the Licensed Program in any other computer system or use it at any other location without Licensor's express authorization obtained in advance (which will not be unreasonably withheld); provided that you may transfer the Licensed Program to another computer temporarily if the computer specified in Exhibit A is inoperable. If you use, copy, or modify the Licensed Program or if you transfer possession of any copy, adaptation, transcription, or merged portion of the Licensed Program to any other party in any way not expressly authorized by Licensor, your license is automatically terminated.

You hereby authorize Licensor to enter your premises in order to inspect the Licensed Program in any reasonable manner during regular business hours to verify your compliance with the terms hereof.

You acknowledge that, in the event of your breach of any of the foregoing provisions, Licensor will not have an adequate remedy in money or damages. Licensor shall therefore be entitled to obtain an injunction against such breach from any court of competent jurisdiction immediately upon request. Licensor's right to obtain injunctive relief shall not limit its right to seek further remedies.

**7. Limited Warranty and Limitation of Liability.** Licensor warrants, for your benefit alone, that the Licensed Program is certified by the State Board of Tax Commissioners. This warranty is expressly conditioned on your observance of the operating, security, and data-control procedures set forth in the User's Manual included with the Licensed Program.

Licensor is not responsible for obsolescence of the Licensed Program that may result from changes in your requirements. The foregoing warranty shall apply only to the most current version of the Licensed Program issued by Licensor and only if Licensee has paid the fees provided for in the Support Agreement from the date of this License through the most current period. Licensor assumes no responsibility for the use of superseded, outdated, or uncorrected versions of the Licensed Program. ~~WE ARE CURRENT~~

As your exclusive remedy for any material defect in the Licensed Program for which Licensor is responsible, Licensor shall attempt through reasonable effort to correct or cure any reproducible defect by issuing corrected instructions, a restriction, or a bypass. In the event Licensor does not correct or cure such nonconformity or defect after it has had a reasonable opportunity to do so, your exclusive remedy shall be the refund of the amount paid as the license fee for the defective or nonconforming module of the Licensed Program. Licensor shall not be obligated to correct, cure, or otherwise remedy any nonconformity or defect in the Licensed Program if you have made any changes whatsoever to the Licensed Program, if the Licensed Program has been misused or damaged in any respect, or if you have not reported to Licensor the existence and nature of such nonconformity or defect promptly upon discovery thereof.

The cumulative liability of Licensor to you for all claims relating to the Licensed Program and this Agreement, including any cause of action sounding in contract, tort, or strict liability, shall not exceed the total amount of all license fees paid to Licensor hereunder. This limitation of liability is intended to apply without regard to whether other provisions of this Agreement have been breached or have proven ineffective. Licensor shall have no liability for loss of data or documentation, it being understood that you are responsible for reasonable backup precautions.

In no event shall Licensor be liable for any loss of profits; any incidental, special, exemplary, or consequential damages; or any claims or demands brought against you, even if Licensor has been advised of the possibility of such claims or demands. This limitation upon damages and claims is intended to apply without regard to whether other provisions of this Agreement have been breached or have proven ineffective.

In the event that Licensor fails to provide a Licensed Program which conforms to Licensor's specifications set forth as an Exhibit to the Licensor's Bid Proposal of October 2, 1995, entitled "ProVal™ Specifications" (the "Software Requirements") within thirty (30) calendar days from the date Licensee makes available to Licensor both conforming computer equipment as described in Section III of the Licensor's Bid Proposal and Licensor's preexisting assessor data in a form usable by Licensor, the parties hereto mutually agree that the Licensee may suffer harm and damage as a result of such delay. Given the fact that the precise measure of damages would be difficult to calculate, the parties hereto agree and stipulate that said damage to Licensee shall be considered to be the amount of Two Hundred Fifty Dollars (\$250.00) per calendar day, and shall, in the event applicable, continue to accrue until the earlier of: (1) such time that said software conforms in all respects to the Software Requirements; or (2) the total amount accrued equals the License Fee paid by Licensee for the Licensed Program. If the accrued damages reach such amount, this License Agreement shall immediately be terminated. During this thirty (30) day period, the Assessor of Bartholomew County shall promptly provide Licensor with written notice of any alleged non-conformity of the Licensed Program to the Software Requirements, and Licensee shall grant Licensor five (5) business days from receipt of such notice to correct the non-conformity, and the \$250/day amount shall not be imposed during that five (5) day period. Further, if at the end of the thirty (30) day period the Licensed Program conforms to the Software Requirements, the Licensed Program shall be deemed as fully and finally accepted by Licensee.

In the event that Licensor becomes liable to Licensee for damages as detailed above, Licensee may elect, in its sole discretion, to request payment of said amounts direct from Licensor, or to apply said amounts due as a credit against future amounts due to Licensor from Licensee under the terms of this License Agreement, Contract Addendum, and Support Agreement.

Licensor and Licensee mutually agree that in the event that factors outside the control of Licensor, including, but not limited to, the inability of Licensor to provide Licensee with access to Licensor's conforming computer equipment or Licensor's preexisting assessor data, prevent Licensor from performing its obligations within the thirty (30) calendar days provided herein for complete performance, Licensor's obligation to perform shall be tolled for such periods of time as Licensor was delayed or prevented from performing due to the factors outside its control.

**8. Term of Agreement; Termination.** Your license of the Licensed Program shall become effective upon delivery of the Licensed Program to you.

Upon termination of this Agreement, all rights granted to you will terminate and revert to Licensor. Promptly upon termination of this Agreement for any reason or upon discontinuance or abandonment of your possession or use of the Licensed Program, you must return or destroy, as requested by Licensor, all copies of the Licensed Program in your possession (whether modified or unmodified), and all other materials pertaining to the Licensed Program (including all copies thereof). You agree to certify your compliance with such restriction upon Licensor's request.

**9. Miscellaneous.** This Agreement shall be governed by and construed in accordance with the laws of the State of Indiana.

**10. This Section Applies To Assessment Software.** Disputes between vendors and counties concerning assessment software shall be resolved by the State of Indiana State Board of Tax Commissioners, if the dispute concerns whether the software meets these standards, or by arbitration, if the dispute concerns other contractual matters. Nothing in these standards shall be construed as limiting the rights of parties to disputes to pursue action in the courts of the State of Indiana once these procedures have been exhausted, or if the dispute involves issues other than the application of these standards ~~or a contract between vendor and county.~~

**Non-compliance with Assessment Software.** Disputes involving allegations that software and documentation fail to meet the Property Tax Assessment Standards of the Indiana State Board of Tax Commissioners shall be submitted to the Indiana State Board of Tax Commissioners for resolution, using the following procedure.

1. A party to the dispute shall file with the Tax Board a written petition for conflict resolution. This petition shall include at least the following:
  - a. A statement that the petitioner is a party to a contract with a vendor for assessment software.
  - b. The identity of the vendor and the assessment software system about which the complaint is filed.
  - c. An allegation that the software system fails to meet these standards, stating specifically the ways in which the system is alleged to violate specified provisions of the standards.
  - d. Written proof that a copy of the petition has been delivered to the vendor whose system is the subject of the dispute.



~~2.~~ The vendor whose system is the subject of the dispute shall, within 15 days of receipt of a copy of the petition, file with the Tax Board a response to each complaint.

3. On the earlier of receipt of a response or 15 days following the filing of the petition, the Tax Board shall initiate an investigation into the complaint. This investigation may be conducted by the Tax Board, its staff, or an agent it designates. The person(s) conducting the investigation shall make a finding of fact and submit that finding to the Tax Board.

4. Vendors shall make available to the investigation their personnel, user documentation, technical documentation, and any other materials or information sources required by the Tax Board or its agent.

5. On receipt of findings of fact, the Tax Board shall review the petition and hold a hearing on the petition. All parties to the complaint shall be entitled to representation at the hearing. The Tax Board shall, at its discretion, find for the vendor, find for the petitioner, or continue the investigation.

6. If the Tax Board finds that the software system fails to meet these standards, it may, at its discretion:

a. Decertify the system, and forbid any new contracts, contract renewals, or contract extensions that call for its use.

b. Impose specific conditions on continued certification of the system.

c. Require specific changes followed by new certification tests.

No modification of this Agreement shall be binding unless it is in writing and is signed by an authorized representative of the party against whom enforcement of the modification is sought.

Any notices required or permitted under this Agreement shall be in writing and delivered in person or sent by registered or certified mail, return receipt requested, with proper postage affixed.

In the event that any of the terms of this Agreement is or becomes or is declared to be invalid or void by any court or tribunal of competent jurisdiction, such term or terms shall be null and void and shall be deemed severed from this Agreement and all the remaining terms of this Agreement shall remain in full force and effect.

THIS AGREEMENT IS THE COMPLETE AND EXCLUSIVE STATEMENT OF LICENSOR'S OBLIGATIONS AND RESPONSIBILITIES TO YOU AND SUPERSEDES ANY OTHER PROPOSAL, REPRESENTATION, OR OTHER COMMUNICATION BY OR ON BEHALF OF LICENSOR RELATING TO THE SUBJECT MATTER HEREOF.

Accepted and Approved:

PROVAL CORPORATION

By: J. Wayne Moore  
Title: President

Date: Oct 23, 1995

BOARD OF COMMISSIONERS  
BARTHOLOMEW COUNTY, INDIANA  
(Licensee)

By: W. S. Kline  
James G. Galt  
Raymond L. Carr

Date: Oct 23, 1995

## EXHIBIT A

1. Identification of licensed program and specifications:  
ProVal™, the Property Valuation System for Windows™ as described and specified in Licensor's Bid Proposal of October 2, 1995 entitled "ProVal™ Specifications"
2. Location of licensee's facility (installation site):  
BARTHOLOMEW County Assessor's and Township Assessors offices  
  
Columbus, Indiana
3. Specification of computer system on which licensed program will execute:  
See proposal specifications and bid dated October 2, 1995
4. License fee: \$14,900.00  
Nine (9) workstations  
No support included with this license  
Training provided under separate agreements
5. Support terms (including training, call-in help and on-site troubleshooting, customized modifications, updates, and enhancements):  
See Support Agreement.

## SUPPORT AGREEMENT

This SUPPORT AGREEMENT ("this Agreement") is made and entered into this 23rd day of October, 1995, by and between PROVAL CORPORATION (hereinafter "Support Vendor") an Ohio Corporation, with principal offices at 33 E. High Street, Springfield, Ohio 45502, and BOARD OF COMMISSIONERS of BARTHOLOMEW COUNTY, INDIANA (hereinafter "Customer"), with principal offices at 440 Third Street, Columbus, Indiana:

WITNESSETH:

WHEREAS, PROVAL CORPORATION ("Licensor") and Customer entered into that certain End-User Agreement dated October 23, 1995 (the "License Agreement") under which Customer obtained a nonexclusive, nontransferable license to use certain computer programs in object code form and related user documentation (the "Licensed Program") on certain terms and conditions;

WHEREAS, Support Vendor desires to offer Customer certain services with respect to the Licensed Program on the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the promises hereof, and the mutual obligations herein, the parties hereto, intending to be legally bound, hereby agree as follows:

### Section 1

#### DEFINITIONS

For the purposes of this Agreement, the following definitions shall apply to the respective capitalized terms.

*I consider  
THIS AN  
ENHANCEMENT*

**1.1 "Enhancement."** Any modification or addition that, when made or added to the Licensed Program, materially changes its utility, efficiency, functional capability, or application, but that does not constitute solely an Error Correction. Enhancements may be designated by Support Vendor as minor or major, depending on Support Vendor's assessment of their value and of the function added to the preexisting Licensed program.

**1.2 "Error."** Any failure of the Licensed Program to conform in all material respects to its functional specifications as published from time to time by Licensor. However, any nonconformity resulting from Customer's misuse, improper use, alteration, or damage of the Licensed Program, or Customer's combining or merging the Licensed Program with any hardware or software not supplied or identified as compatible by Licensor or Support Vendor, shall not be considered an Error.

**1.3 "Error Correction."** Either a modification or an addition that, when made or added to the Licensed Program, establishes material conformity of the Licensed Program to the functional specifications, or a procedure or routine that, when observed in the regular operation of the Licensed Program, eliminates the practical adverse effect on Customer of such nonconformity.

**1.4 "Licensed Program."** The computer programs described in the End-User Agreement including any extracts from such programs, derivative works of such programs, or collective works including such programs (such as subsequent Releases) to the extent offered to Customer under this Agreement or the License Agreement.

**1.5 "Normal Working Hours."** The hours between 8 a.m. and 5 p.m. on the days Monday through Friday, excluding regularly scheduled holidays of Support Vendor. A copy of said holidays is attached hereto as Exhibit "D".

**1.6 "Releases."** New versions of the Licensed Program, which may include both Error Corrections and Enhancements.

**1.7 "Term."** An initial period beginning on the date of this Agreement and ending September 30, 1996. Thereafter, the Term shall automatically renew for successive periods of one (1) year each unless and until terminated pursuant to Section 6 hereof. In no event, however, shall the Term extend beyond the prescribed term of the License Agreement.

## Section 2

### SCOPE OF SERVICES

During the Agreement term, Support Vendor shall render the following services in support of the Licensed Program, during Normal Working Hours, subject to the compensation fixed for each type of service in Support Vendor's rate schedule set forth in Exhibit A.

**2.1** Support Vendor shall maintain a telephone hotline that allows Customer to report system problems and to seek assistance in use of the Licensed Program.

**2.2** Support Vendor shall maintain a trained staff capable of rendering the services set forth in this Agreement.

**2.3** Support Vendor shall be responsible for using all reasonable diligence to correct verifiable and reproducible Errors when reported to Support Vendor in accordance with Support Vendor's standard reporting procedures. Support Vendor shall, within 24 business hours of verifying that such an Error is present, initiate work in a diligent manner toward development of an Error Correction. Following completion of the Error Correction, Support Vendor shall provide the Error Correction through a "temporary fix" consisting of sufficient programming and operating instructions to implement the Error Correction. Support Vendor shall include the Error Correction in all subsequent Releases of the Licensed Program. Support Vendor shall not be responsible for correcting Errors in any version of the Licensed Program other than the most recent Release of the Licensed Program, provided that Support Vendor shall continue to support prior Releases superseded by recent Releases for a reasonable period sufficient to allow Customer to implement the newest Release, not to exceed 60 days.

**2.4** Support Vendor may, from time to time, issue new Releases of the Licensed Program to its customers generally, containing Error Corrections, minor Enhancements, and, in certain instances if Support Vendor so elects, major Enhancements. Support Vendor shall provide Customer with one copy of each new Release, without additional charge. Support Vendor shall provide reasonable assistance to help Customer install and operate each new Release, provided that such assistance, if required to be provided at Customer's facility, shall be subject to the supplemental charges set forth in Exhibit A attached hereto.

Why ARE WE BEING CHARGED?

2.5 Support Vendor may, from time to time, offer major Enhancements to its customers generally for an additional charge.

2.6 Subject to space availability, Customer may enroll its employees in Support Vendor's training classes, held at Support Vendor's facility, for regular or advanced training.

2.7 Support Vendor shall consider and evaluate the development of Enhancements for the specific use of Customer and shall respond to Customer's requests for additional services pertaining to the Licensed Program (including, without limitation, data conversion and report-formatting assistance), provided that such assistance, if agreed to be provided, shall be subject to supplemental charges mutually agreed to by Support Vendor and Customer.

2.8 Support Vendor may from time to time provide other special services to Customer as outlined in Exhibit B.

### Section 3

#### FEES AND CHARGES

3.1 Customer shall pay Support Vendor its fees and charges based on the rate schedule set forth in Exhibit A attached hereto.

3.2 Customer shall reimburse Support Vendor for travel expenses (i.e., transportation, lodging, and meals) incurred by Support Vendor in rendering services to Customer at Customer's site. These expenses are included in and are part of Support Vendor's daily on-site fees stated in Exhibit A.

3.3 Support Vendor shall invoice Customer at the beginning of each calendar month for that month's support fee and for all other fees and charges accrued during the previous month. Customer shall pay the invoiced amount promptly in its normal payment cycle.

3.4 Customer shall be responsible for procuring, installing, and maintaining all equipment, telephone lines, communications interfaces, and other hardware (other than the hardware constituting the program control center maintained at Support Vendor's facilities) necessary to operate the Licensed Program and to obtain from Support Vendor the services called for by this Agreement.

### Section 4

#### PROPRIETARY RIGHTS

4.1 To the extent that Support Vendor may provide Customer with any Error Corrections or Enhancements or any other program, including any new programs or components, or any compilations or derivative works prepared by Support Vendor (collectively, "Vendor Programs"), Customer may (1) install one set of the Vendor Programs, in the most current form provided by Support Vendor, in Customer's own facility for use on all workstations licensed by Vendor for use by Customer; (2) use such Vendor Programs in connection with the Licensed Programs, and in a manner consistent with the requirements of the License Agreement, for purposes of serving Customer's internal county needs; and (3) make one copy of the Vendor Programs in machine-readable form for nonproductive backup purposes only. Customer may not use, copy, or modify the Vendor Programs, or any copy, adaptation, transcription, or merged

portion thereof, except as expressly authorized by Support Vendor. Notwithstanding Section 6 hereof, Customer's rights under this Section 4.1 shall remain in effect for so long as Customer is authorized to use the Licensed Programs under the License Agreement. Upon termination of such License Agreement, Customer shall return or destroy the Vendor Programs, and returning the Vendor Programs in the manner required by the License Agreement shall be sufficient for such purpose.

4.2 The Vendor Programs, including any associated intellectual property rights, are and shall remain the sole property of Support Vendor, regardless of whether Customer, its employees, or contractors may have contributed to the conception of such work, joined in the effort of its development, or paid Support Vendor for the use of the work product. Customer shall from time to time take any further action and execute and deliver any further instrument, including documents of assignment or acknowledgment, that Support Vendor may reasonably request in order to establish and perfect its exclusive ownership rights in such works, including any associated intellectual property rights.

## Section 5

### DISCLAIMER OF WARRANTY AND LIMITATION OF LIABILITY

5.1 EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, SUPPORT VENDOR EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES CONCERNING THE LICENSED PROGRAM OR THE SERVICES TO BE RENDERED HEREUNDER, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

5.2 In no event shall Support Vendor's cumulative liability for any claim arising in connection with this Agreement exceed the lesser of the total fees and charges paid to Support Vendor by Customer within the last 3 months. In no event shall Support Vendor be liable for any indirect, consequential, special, exemplary, or incidental damages of whatever kind and however caused, even if Support Vendor knew or should have known of the possibility of such damages.

5.3 No action, whether based in contract, strict liability, or tort, including any action based on negligence, arising out of the performance of services under this Agreement, may be brought by either party more than one (1) year after such cause of action accrued, except that an action for nonpayment may be brought within two years of the date of the last payment.

## Section 6

### TERMINATION

6.1 This Agreement may be terminated as follows:

1. This Agreement shall immediately terminate upon the termination of the License Agreement;
2. This Agreement may be terminated by either party upon the expiration of the then current term of this Agreement, provided that at least 90 days' prior written notice is given to the other party; or

3. This Agreement may be terminated by either party upon 30 days' prior written notice if the other party has materially breached the provisions of this Agreement and has not cured such breach within such notice period.

6.2 Following termination of this Agreement, Support Vendor shall immediately invoice Customer for all accrued fees and charges and all reimbursable expenses, and Customer shall pay the invoiced amount immediately upon receipt of such invoice. Customer may continue to use any work supplied to Customer by Support Vendor for the remaining term of the License Agreement. Any amount not paid within 30 days after the invoice date shall bear interest at the lesser of one (1) percent per month or the highest rate allowed by applicable law.

## Section 7

### MISCELLANEOUS

7.1 Each party acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms. The parties further agree that this is the complete and exclusive statement of the agreement of the parties with respect to the subject matter hereof and that it supersedes and merges all prior proposals, understandings, and agreements, whether oral or written, between the parties with respect to the subject matter hereof. This Agreement may not be modified except by a written instrument duly executed by the parties hereto.

7.2 This Agreement and the parties' obligations hereunder shall be governed, construed, and enforced in accordance with the laws of the State of Indiana.

7.3 In the event that any provision of this Agreement is held invalid, illegal, or unenforceable, the remaining provisions shall be enforced to the maximum extent permitted by applicable law.

7.4 Neither party may assign its rights or duties under this Agreement without the prior written consent of the other party, except to a successor of all or substantially all of its business and properties.

7.5 The waiver by either party of any term or condition of this Agreement shall not be deemed to constitute a continuing waiver thereof nor of any further or additional right that such party may hold under this Agreement.

7.6 The Support Vendor will be available to make future modifications in the system required by future changes in State law, Tax Board rules and regulations or software standards as long as this Support Agreement remains in effect and paid up to date.

7.7 The Support Vendor will reimburse the county for all costs incurred as a result of the Vendor's failure to continue to support the assessment software during the life of this Agreement if the Customer is paying the fees provided for in this Agreement.

7.8 The Support Vendor's documentation and source code will be released by the escrow agent to the Customer when the Tax Board, an arbitrator, or a court rules that the Vendor has ceased to provide continued support and that the Vendor is incapable of resuming support.



7.9 These contract provisions shall be binding on all parties to the contract and their successors or assigns.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as set forth below.

PROVAL CORPORATION

By: J. Wayne Moore  
Title: President

Date: October 23, 1995

BARTHOLOMEW COUNTY, INDIANA

By: [Signature]  
[Signature]  
[Signature]

Board of Commissioners

Date: Oct 23, 1995

**EXHIBIT A**

**PROVAL CORPORATION  
ON SITE TRAINING/TECHNICAL ASSISTANCE  
(Per Support Person)**

1 day visit (includes all expenses) 8:00 - 12:00 (4 Hours On Site)	\$ 500
2 day visit (includes all expenses) 12:00 - 4:00 day 1 8:00 - 12:00 day 2	800
3 day visit (includes all expenses) 12:00 - 4:00 day 1 8:00 - 4:00 day 2 8:00 - 12:00 day 3	1,200
4 day visit (includes all expenses) 12:00 - 4:00 day 1 8:00 - 4:00 days 2 & 3 8:00 - 12:00 day 4	1,600
5 day visit (includes all expenses) 12:00 - 4:00 Monday 8:00 - 4:00 Tuesday, Wednesday, Thursday 8:00 - 12:00 Friday	2,000
Per month (includes all expenses) 18 days 8:00 - 4:00	6,300
Custom programming - done at ProVal office, not during site visit (Programming done during an on site visit is covered by the on site fee)	\$65/hr
Software telephone support & updates (9 Workstations) Beginning October 1, 1996	\$725/mo.

## **EXHIBIT B**

### **SPECIAL SERVICES**

#### **General.**

Support Vendor may offer and Customer may accept special services from time to time. Agreements for such services shall be described in writing as an addendum to this Agreement and properly executed by both Support Vendor and Customer.

#### **Training.**

Support Vendor shall provide 4 days of on site training for a total fee of \$1,600.00. The actual days of training do not need to be scheduled back-to-back, but will be according to a mutually agreed upon schedule.

#### **File Conversion.**

Support Vendor shall provide file conversion services from the 1989 Atek reassessment flat files into the new database for no additional charge.

ProVal Corporation will provide modifications to their software as needed to create flat files capable of being exported from the ProVal system to any other computer hardware and software system being used by Bartholomew County for purposes of property tax billing as a normal part of the annual maintenance fees paid to ProVal Corporation by Bartholomew County, Indiana. Necessary modifications to the export portion of the ProVal software will be made in a timely fashion so as to allow property tax billing to be performed at times normally scheduled for that purpose by the County.

#### **First Year Conversion Support & Updates.**

Support Vendor shall install, support and provide maintenance updates for the ProVal™ application software from the date of this agreement through September 30, 1996 for a flat fee of \$8,700.00.

## Exhibit C

### SUPPORT AGREEMENT ADDENDUM

This Support Agreement Addendum further clarifies Sections 1 and 2 of the Support Agreement and provides a more specific description of Support Vendor's included services with respect to minor and major Enhancements (paragraphs 2.5 and 2.6).

1. All new Releases of the Licensed Program containing error corrections, minor enhancements and most major enhancements, shall be provided to Customer at no additional charge beyond the monthly Support Agreement Fee. Minor and major enhancements of the following application areas are specifically included:

- a. All aspects of the Real Estate assessment software including data entry, processing, cost approach pricing and printing Property Record Cards and Form 11's for all classes of property.
- b. Market Approach valuation
- c. Income Approach valuation
- d. Personal Property
- e. Mobile Homes
- f. Appeals Tracking
- g. Permit Tracking
- h. Any changes mandated by the State Tax Board

2. Major enhancements which are subject to additional charges include the following application areas:

- a. Capabilities not part of the existing system, which might be added later to benefit Assessors such as handling Dog Licenses.
- b. Add-on packages such as the Report Writer which constitute an optional feature.
- c. Major application areas not covered by paragraph 1 above.

ARE THE REASSESSMENT CHANGES  
COVERED IN PARAGRAPH 1.?

**EXHIBIT D**

**ProVal Corporation Holidays**

New Year's Day

Memorial Day  
(observed)

Independence Day

Day following Independence Day  
if Independence Day falls on Thursday

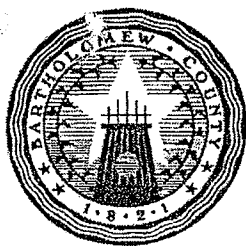
Labor Day

Thanksgiving Day

Day after Thanksgiving

Christmas Eve  
if week day

Christmas Day  
(observed)



Bartholomew County Information Services  
Governmental Office Building Suite B1  
440 Third Street  
Columbus, Indiana 47201

Phone (812)379-1542  
Fax (812)379-1543

# Fax

**To:** NANCY STASSEN

**From:** SCOTT MAYES

**Fax:** 317-232-8779

**Pages:** 22

**Phone:** 317-232-3759

**Date:** 2-1-2002

**Re:** ASSESSOR SOFTWARE

**CC:**

☐ Urgent    ☐ For Review    ☐ Please Comment    ☒ Please Reply    ☐ Please Recycle

● **Comments:**

**NANCY,**

I HAVE INCLUDED OUR ENTIRE CURRENT SOFTWARE CONTRACT FROM MANATRON/PROVAL. I HAVE MADE SEVERAL MARKINGS AND NOTATIONS OF AREAS OF THIS CONTRACT I BELIEVE COVER OUR NEEDS FOR THE REASSESSMENT UPDATES. I HAVE A SPECIAL INTEREST IN THE NEXT TO LAST PAGE "EXHIBIT C" THIS PAGE SPEAKS OF SPECIFIC AREAS THAT THIS AGREEMENT WILL PROVIDE. MY BIGGEST QUESTION IS IF THE REASSESSMENT REQUIREMENTS ARE INCLUDED IN AN AREA LISTED IN THIS PARAGRAPH. I APPRECIATE YOUR TIME AND HELP WITH THIS MATTER. WE FEEL VERY PUSHED INTO SIGNING A NEW CONTRACT THAT WE QUITE FRANKLY DO NOT AGREE WITH. WE FEEL THAT MANATRON IS USING THE STATE TAX BOARD REASSESSMENT DEADLINES TO PUSH OUR COUNTY INTO SIGNING A NEW CONTRACT AND SPENDING A TREMENDOUSLY ADDITIONAL AMOUNT OF MONEY. WE WILL CERTAINLY BE GRATEFUL OF ANY ASSISTANCE OR GUIDANCE YOU CAN OFFER US.

I CAN BE REACHED BY PHONE AT 812-379-1542 OR PAGER AT 812-373-4725

THANK YOU,

SCOTT MAYES